



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2285

Introduced 2/14/2008, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

New Act
20 ILCS 2105/2105-400
745 ILCS 49/68

Creates the Uniform Emergency Volunteer Health Practitioners Act. Provides for the registration of volunteer health practitioners with a registration system for the provision of health or veterinary services in the State for a host entity while an emergency declaration is in effect. Provides for the creation of the registration system. Provides that the Illinois Emergency Management Agency shall be the administrating authority of the uniform Act. Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois to grant the Secretary of Financial and Professional Regulation the power to request the services of emergency volunteer health practitioners registered under the Uniform Emergency Volunteer Health Practitioners Act. Amends the Good Samaritan Act to include volunteers under the Uniform Emergency Volunteer Health Practitioners Act in the list of disaster relief volunteers granted immunity from liability under the Act and to broaden the types of emergency situations in which the immunity applies.

LRB095 16126 RAS 42145 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Uniform Emergency Volunteer Health Practitioners Act.

6 Section 2. Definitions. In this Act:

7 (1) "Disaster relief organization" means an entity that
8 provides emergency or disaster relief services that include
9 health or veterinary services provided by volunteer health
10 practitioners and that:

11 (A) is designated or recognized as a provider of those
12 services pursuant to a disaster response and recovery plan
13 adopted by an agency of the federal government or the
14 Illinois Emergency Management Agency; or

15 (B) regularly plans and conducts its activities in
16 coordination with an agency of the federal government or
17 the Illinois Emergency Management Agency.

18 (2) "Emergency" means an event or condition that is an
19 emergency, disaster, or public health emergency under the
20 Illinois Emergency Management Agency Act and other appropriate
21 laws of this State, a political subdivision of this State, or a
22 municipality or other local government within this State.

23 (3) "Emergency declaration" means a declaration of

1 emergency issued by a person authorized to do so under the laws
2 of this State, a political subdivision of this State, or a
3 municipality or other local government within this State.

4 (4) "Emergency Management Assistance Compact" means the
5 interstate compact approved by Congress by Public Law No.
6 104-321,110 Stat. 3877 (Emergency Management Assistance
7 Compact Act (45 ILCS 151/1 et seq.)).

8 (5) "Entity" means a person other than an individual.

9 (6) "Health facility" means an entity licensed under the
10 laws of this or another state to provide health or veterinary
11 services.

12 (7) "Health practitioner" means an individual licensed
13 under the laws of this or another state to provide health or
14 veterinary services.

15 (8) "Health services" means the provision of treatment,
16 care, advice or guidance, or other services, or supplies,
17 related to the health or death of individuals or human
18 populations, to the extent necessary to respond to an
19 emergency, including:

20 (A) the following, concerning the physical or mental
21 condition or functional status of an individual or
22 affecting the structure or function of the body:

23 (i) preventive, diagnostic, therapeutic,
24 rehabilitative, maintenance, or palliative care; and

25 (ii) counseling, assessment, procedures, or other
26 services;

1 (B) sale or dispensing of a drug, a device, equipment,
2 or another item to an individual in accordance with a
3 prescription; and

4 (C) funeral, cremation, cemetery, or other mortuary
5 services.

6 (9) "Host entity" means an entity operating in this State
7 which uses volunteer health practitioners to respond to an
8 emergency.

9 (10) "License" means authorization by a state to engage in
10 health or veterinary services that are unlawful without the
11 authorization. The term includes authorization under the laws
12 of this State to an individual to provide health or veterinary
13 services based upon a national certification issued by a public
14 or private entity.

15 (11) "Person" means an individual, corporation, business
16 trust, trust, partnership, limited liability company,
17 association, joint venture, public corporation, government or
18 governmental subdivision, agency, or instrumentality, or any
19 other legal or commercial entity.

20 (12) "Scope of practice" means the extent of the
21 authorization to provide health or veterinary services granted
22 to a health practitioner by a license issued to the
23 practitioner in the state in which the principal part of the
24 practitioner's services are rendered, including any conditions
25 imposed by the licensing authority.

26 (13) "State" means a state of the United States, the

1 District of Columbia, Puerto Rico, the United States Virgin
2 Islands, or any territory or insular possession subject to the
3 jurisdiction of the United States.

4 (14) "Veterinary services" means the provision of
5 treatment, care, advice or guidance, or other services, or
6 supplies, related to the health or death of an animal or to
7 animal populations, to the extent necessary to respond to an
8 emergency, including:

9 (A) diagnosis, treatment, or prevention of an animal
10 disease, injury, or other physical or mental condition by
11 the prescription, administration, or dispensing of
12 vaccine, medicine, surgery, or therapy;

13 (B) use of a procedure for reproductive management; and

14 (C) monitoring and treatment of animal populations for
15 diseases that have spread or demonstrate the potential to
16 spread to humans.

17 (15) "Volunteer health practitioner" means a health
18 practitioner who provides health or veterinary services,
19 whether or not the practitioner receives compensation for those
20 services. The term does not include a practitioner who receives
21 compensation pursuant to a preexisting employment relationship
22 with a host entity or affiliate which requires the practitioner
23 to provide health services in this State, unless the
24 practitioner is not a resident of this State and is employed by
25 a disaster relief organization providing services in this State
26 while an emergency declaration is in effect.

1 Section 3. Applicability to volunteer health
2 practitioners. This Act applies to volunteer health
3 practitioners registered with a registration system that
4 complies with Section 5 and who provide health or veterinary
5 services in this State for a host entity while an emergency
6 declaration is in effect.

7 Section 4. Regulation of services during emergency.

8 (a) While an emergency declaration is in effect, the
9 Illinois Emergency Management Agency may limit, restrict, or
10 otherwise regulate:

11 (1) the duration of practice by volunteer health
12 practitioners;

13 (2) the geographical areas in which volunteer health
14 practitioners may practice;

15 (3) the types of volunteer health practitioners who may
16 practice; and

17 (4) any other matters necessary to coordinate
18 effectively the provision of health or veterinary services
19 during the emergency.

20 (b) An order issued pursuant to subsection (a) may take
21 effect immediately, without prior notice or comment, and is not
22 a rule within the meaning of the Illinois Administrative
23 Procedure Act.

24 (c) A host entity that uses volunteer health practitioners

1 to provide health or veterinary services in this State shall:

2 (1) consult and coordinate its activities with the
3 Illinois Emergency Management Agency to the extent
4 practicable to provide for the efficient and effective use
5 of volunteer health practitioners; and

6 (2) comply with any laws other than this Act relating
7 to the management of emergency health or veterinary
8 services, including the Illinois Emergency Management
9 Agency Act.

10 Section 5. Volunteer Health Practitioner Registration
11 Systems.

12 (a) To qualify as a volunteer health practitioner
13 registration system, a system must:

14 (1) accept applications for the registration of
15 volunteer health practitioners before or during an
16 emergency;

17 (2) include information about the licensure and good
18 standing of health practitioners which is accessible by
19 authorized persons;

20 (3) be capable of confirming the accuracy of
21 information concerning whether a health practitioner is
22 licensed and in good standing before health services or
23 veterinary services are provided under this Act; and

24 (4) meet one of the following conditions:

25 (A) be an emergency system for advance

1 registration of volunteer health-care practitioners
2 established by a state and funded through the
3 Department of Health and Human Services under Section
4 319I of the Public Health Services Act, 42 USC Section
5 247d-7b (as amended);

6 (B) be a local unit consisting of trained and
7 equipped emergency response, public health, and
8 medical personnel formed pursuant to Section 2801 of
9 the Public Health Services Act, 42 U.S.C. Section 300hh
10 (as amended);

11 (C) be operated by a:

12 (i) disaster relief organization;

13 (ii) licensing board;

14 (iii) national or regional association of
15 licensing boards or health practitioners;

16 (iv) health facility that provides
17 comprehensive inpatient and outpatient health-care
18 services, including a tertiary care, teaching
19 hospital, or ambulatory surgical treatment center;

20 or

21 (v) governmental entity; or

22 (D) be designated by Illinois Emergency Management
23 Agency as a registration system for purposes of this
24 Act.

25 (b) While an emergency declaration is in effect, the
26 Illinois Emergency Management Agency, a person authorized to

1 act on behalf of the Illinois Emergency Management Agency, or a
2 host entity, may confirm whether volunteer health
3 practitioners utilized in this State are registered with a
4 registration system that complies with subsection (a).
5 Confirmation is limited to obtaining identities of the
6 practitioners from the system and determining whether the
7 system indicates that the practitioners are licensed and in
8 good standing.

9 (c) Upon request of a person in this State authorized under
10 subsection (b), or a similarly authorized person in another
11 state, a registration system located in this State shall notify
12 the person of the identities of volunteer health practitioners
13 and whether the practitioners are licensed and in good
14 standing.

15 (d) A host entity is not required to use the services of a
16 volunteer health practitioner even if the practitioner is
17 registered with a registration system that indicates that the
18 practitioner is licensed and in good standing.

19 Section 6. Recognition of volunteer health practitioners
20 licensed in other states.

21 (a) While an emergency declaration is in effect, a
22 volunteer health practitioner, registered with a registration
23 system that complies with Section 5 and licensed and in good
24 standing in the state upon which the practitioner's
25 registration is based, may practice in this State to the extent

1 authorized by this Act as if the practitioner were licensed in
2 this State.

3 (b) A volunteer health practitioner qualified under
4 subsection (a) is not entitled to the protections of this Act
5 if the practitioner is licensed in more than one state and any
6 license of the practitioner is suspended, revoked, or subject
7 to an agency order limiting or restricting practice privileges,
8 or has been voluntarily terminated under threat of sanction.

9 Section 7. No effect on credentialing and privileging.

10 (a) In this section:

11 (1) "Credentialing" means obtaining, verifying, and
12 assessing the qualifications of a health practitioner to
13 provide treatment, care, or services in or for a health
14 facility.

15 (2) "Privileging" means the authorizing by an
16 appropriate authority, such as a governing body, of a
17 health practitioner to provide specific treatment, care,
18 or services at a health facility subject to limits based on
19 factors that include license, education, training,
20 experience, competence, health status, and specialized
21 skill.

22 (b) This Act does not affect credentialing or privileging
23 standards of a health facility and does not preclude a health
24 facility from waiving or modifying those standards while an
25 emergency declaration is in effect.

1 Section 8. Provision of volunteer health or veterinary
2 services; administrative sanctions.

3 (a) Subject to subsections (b) and (c), a volunteer health
4 practitioner shall adhere to the scope of practice for a
5 similarly licensed practitioner established by the licensing
6 provisions, practice acts, or other laws of this State.

7 (b) Except as otherwise provided in subsection (c), this
8 Act does not authorize a volunteer health practitioner to
9 provide services that are outside the practitioner's scope of
10 practice, even if a similarly licensed practitioner in this
11 State would be permitted to provide the services.

12 (c) The Illinois Emergency Management Agency, the
13 Department of Financial and Professional Regulation, or the
14 Department of Public Health may modify or restrict the health
15 or veterinary services that volunteer health practitioners may
16 provide pursuant to this Act. An order under this subsection
17 may take effect immediately, without prior notice or comment,
18 and is not a rule within the meaning of the Illinois
19 Administrative Procedure Act.

20 (d) A host entity may restrict the health or veterinary
21 services that a volunteer health practitioner may provide
22 pursuant to this Act.

23 (e) A volunteer health practitioner does not engage in
24 unauthorized practice unless the practitioner has reason to
25 know of any limitation, modification, or restriction under this

1 section or that a similarly licensed practitioner in this State
2 would not be permitted to provide the services. A volunteer
3 health practitioner has reason to know of a limitation,
4 modification, or restriction or that a similarly licensed
5 practitioner in this State would not be permitted to provide a
6 service if: (1) the practitioner knows the limitation,
7 modification, or restriction exists or that a similarly
8 licensed practitioner in this State would not be permitted to
9 provide the service; or (2) from all the facts and
10 circumstances known to the practitioner at the relevant time, a
11 reasonable person would conclude that the limitation,
12 modification, or restriction exists or that a similarly
13 licensed practitioner in this State would not be permitted to
14 provide the service.

15 (f) In addition to the authority granted by law of this
16 State other than this Act to regulate the conduct of health
17 practitioners, a licensing board or other disciplinary
18 authority in this State:

19 (1) may impose administrative sanctions upon a health
20 practitioner licensed in this State for conduct outside of
21 this State in response to an out-of-state emergency;

22 (2) may impose administrative sanctions upon a
23 practitioner not licensed in this State for conduct in this
24 State in response to an in-state emergency; and

25 (3) shall report any administrative sanctions imposed
26 upon a practitioner licensed in another state to the

1 appropriate licensing board or other disciplinary
2 authority in any other state in which the practitioner is
3 known to be licensed.

4 (g) In determining whether to impose administrative
5 sanctions under subsection (f), a licensing board or other
6 disciplinary authority shall consider the circumstances in
7 which the conduct took place, including any exigent
8 circumstances, and the practitioner's scope of practice,
9 education, training, experience, and specialized skill.

10 Section 9. Relation to other laws.

11 (a) This Act does not limit rights, privileges, or
12 immunities provided to volunteer health practitioners by laws
13 other than this Act. Except as otherwise provided in subsection
14 (b), this Act does not affect requirements for the use of
15 health practitioners pursuant to the Emergency Management
16 Assistance Compact.

17 (b) The Illinois Emergency Management Agency, pursuant to
18 the Emergency Management Assistance Compact, may incorporate
19 into the emergency forces of this State volunteer health
20 practitioners who are not officers or employees of this State,
21 a political subdivision of this State, or a municipality or
22 other local government within this State.

23 Section 10. Regulatory Authority. The Illinois Emergency
24 Management Agency may promulgate rules to implement this Act.

1 In doing so, the Illinois Emergency Management Agency shall
2 consult with and consider the recommendations of the entity
3 established to coordinate the implementation of the Emergency
4 Management Assistance Compact and shall also consult with and
5 consider rules promulgated by similarly empowered agencies in
6 other states to promote uniformity of application of this Act
7 and make the emergency response systems in the various states
8 reasonably compatible.

9 Section 11. (Blank).

10 Section 12. Workers' compensation coverage.

11 (a) In this section, "injury" means a physical or mental
12 injury or disease for which an employee of this State who is
13 injured or contracts the disease in the course of the
14 employee's employment would be entitled to benefits under the
15 workers' compensation or occupational disease law of this
16 State.

17 (b) A volunteer health practitioner who dies or is injured
18 as the result of providing health or veterinary services
19 pursuant to this Act is deemed to be an employee of this State
20 for the purpose of receiving benefits for the death or injury
21 under the workers' compensation or occupational disease law of
22 this State if:

23 (1) the practitioner is not otherwise eligible for such
24 benefits for the injury or death under the law of this or

1 another state; and

2 (2) the practitioner, or in the case of death the
3 practitioner's personal representative, elects coverage
4 under the workers' compensation or occupational disease
5 law of this State by making a claim under that law.

6 (c) The Department of Labor shall adopt rules, enter into
7 agreements with other states, or take other measures to
8 facilitate the receipt of benefits for injury or death under
9 the workers' compensation or occupational disease law of this
10 State by volunteer health practitioners who reside in other
11 states, and may waive or modify requirements for filing,
12 processing, and paying claims that unreasonably burden the
13 practitioners. To promote uniformity of application of this Act
14 with other states that enact similar legislation, the
15 Department of Labor shall consult with and consider the
16 practices for filing, processing, and paying claims by agencies
17 with similar authority in other states.

18 Section 900. The Department of Professional Regulation Law
19 of the Civil Administrative Code of Illinois is amended by
20 changing Section 2105-400 as follows:

21 (20 ILCS 2105/2105-400)

22 Sec. 2105-400. Emergency Powers.

23 (a) Upon proclamation of a disaster by the Governor, as
24 provided for in the Illinois Emergency Management Agency Act,

1 the Secretary of Financial and Professional Regulation shall
2 have the following powers, which shall be exercised only in
3 coordination with the Illinois Emergency Management Agency and
4 the Department of Public Health:

5 (1) The power to suspend the requirements for permanent
6 or temporary licensure of persons who are licensed in
7 another state and are working under the direction of the
8 Illinois Emergency Management Agency and the Department of
9 Public Health pursuant to a declared disaster.

10 (2) The power to modify the scope of practice
11 restrictions under any licensing act administered by the
12 Department for any person working under the direction of
13 the Illinois Emergency Management Agency and the Illinois
14 Department of Public Health pursuant to the declared
15 disaster.

16 (3) The power to expand the exemption in Section 4(a)
17 of the Pharmacy Practice Act to those licensed
18 professionals whose scope of practice has been modified,
19 under paragraph (2) of subsection (a) of this Section, to
20 include any element of the practice of pharmacy as defined
21 in the Pharmacy Practice Act for any person working under
22 the direction of the Illinois Emergency Management Agency
23 and the Illinois Department of Public Health pursuant to
24 the declared disaster.

25 (4) The power to request the services of emergency
26 volunteer health practitioners registered with an approved

1 registration system created under the Uniform Emergency
2 Volunteer Health Practitioners Act.

3 (b) Persons exempt from licensure under paragraph (1) of
4 subsection (a) of this Section and persons operating under
5 modified scope of practice provisions under paragraph (2) of
6 subsection (a) of this Section shall be exempt from licensure
7 or be subject to modified scope of practice only until the
8 declared disaster has ended as provided by law. For purposes of
9 this Section, persons working under the direction of an
10 emergency services and disaster agency accredited by the
11 Illinois Emergency Management Agency and a local public health
12 department, pursuant to a declared disaster, shall be deemed to
13 be working under the direction of the Illinois Emergency
14 Management Agency and the Department of Public Health.

15 (c) The Director shall exercise these powers by way of
16 proclamation.

17 (Source: P.A. 94-733, eff. 4-27-06; 95-689, eff. 10-29-07.)

18 Section 905. The Good Samaritan Act is amended by changing
19 Section 68 as follows:

20 (745 ILCS 49/68)

21 Sec. 68. Disaster Relief Volunteers. Any firefighter,
22 licensed emergency medical technician (EMT) as defined by
23 Section 3.50 of the Emergency Medical Services (EMS) Systems
24 Act, physician, dentist, podiatrist, optometrist, pharmacist,

1 advanced practice nurse, physician assistant, ~~or~~ nurse, or
2 volunteer rendering services in this State pursuant to the
3 Uniform Emergency Volunteer Health Practitioner Act who in good
4 faith and without fee or compensation provides health care
5 services as a disaster relief volunteer shall not, as a result
6 of his or her acts or omissions, except willful and wanton
7 misconduct on the part of the person, in providing health care
8 services, be liable to a person to whom the health care
9 services are provided for civil damages. This immunity applies
10 to health care services that are provided without fee or
11 compensation during or within 10 days following the end of a
12 disaster or catastrophic event.

13 The immunity provided in this Section ~~only~~ applies to a
14 disaster relief volunteer who provides health care services in
15 relief of an earthquake, hurricane, tornado, nuclear attack,
16 terrorist attack, epidemic, ~~or~~ pandemic, or any other emergency
17 situation in which volunteers provide services in this State
18 under the Uniform Emergency Volunteer Health Practitioner Act
19 without fee or compensation for providing the volunteer health
20 care services.

21 The provisions of this Section shall not apply to any
22 health care facility as defined in Section 8-2001 of the Code
23 of Civil Procedure or to any practitioner, who is not a
24 disaster relief volunteer, providing health care services in a
25 hospital or health care facility in a capacity other than that
26 of a disaster relief volunteer.

1 (Source: P.A. 95-447, eff. 8-27-07.)